

# ELEXON

07 February 2024

By e-mail to: [Flexibility@ofgem.gov.uk](mailto:Flexibility@ofgem.gov.uk)

Dear Joseph and the Local Governance and Flexibility Strategy team,

## **Re: Consultation on Market facilitator delivery body**

Thank you for the opportunity to respond to your consultation on the market facilitator delivery body.

Elexon is a trusted, independent, expert delivery body that supports the transition to a net zero energy system. We are delivering a system that is more flexible, secure, cost effective and efficient.

Elexon manages the Balancing and Settlement Code (BSC), one of the major codes which sets out the rules for the electricity market, so that Britain's energy system operates effectively. For over 20 years, Elexon has played a leadership role in facilitating changes in market rules to open new markets to a greater number of participants, while preventing the changes needed to foster competition and innovation from having negative effects on other stakeholders or parts of the complex energy supply chain.

Moreover, we provide governance, settlement and data platforms (Elexon Kinnect) that enable the smooth operation of the electricity market, which incorporates energy suppliers, generators, flexibility service providers and network companies across the GB.

We are also appointed by Ofgem as the Senior Responsible Owner (SRO) to deliver the Market-wide Half Hourly Settlement (MHHS) Programme. Half-hourly settlement will be a key enabler for the flexibility needed for the transition to net zero.

Elexon's existing role and our expertise ranges from settling the Balancing Mechanism and wholesale imbalances right down to assuring the metering and data collection processes for the smallest customers, which means that Elexon already have a 'whole system view' which makes its position in the industry unique.

Our end-to-end expertise in governance, assurance, technology platform development and electricity market data is available to support the industry, Government and Ofgem as the energy sector transitions to net zero. The electricity market data we hold is open, and available for anyone to access, analyse and share. As a neutral, reliable, not-for-profit market expert, we continuously look to evolve and innovate for the benefit of our customers and their end consumers.

## **Summary**

In our response to your consultation, we have highlighted the key themes and messages below:

- 1) We fully agree and support the vision for the market facilitator outlined by Ofgem in the latest consultation on the market facilitator delivery body. We are strongly supportive of Ofgem's proposals aimed at ensuring that the governance arrangements and enabling infrastructure at the subnational level are fully developed and harmonised to enable a cost-effective transition to a net zero future.
- 2) We appreciate the opportunities offered by Ofgem to discuss the role and the details of Elexon's governance and operations. We thank the industry participants who generously shared their views with us in December 2023 – February 2024, as we embarked to collect views and opinions on what value and unique contributions the market facilitator can deliver to enable distributed flexibility, consumer centricity and the transition to net zero. Thanks to this intense engagement activity and the useful inputs we have received, we have been able to deepen some aspects and elements that we believe are crucial for the achievement of objectives shared by the industry and efficient results for markets and end consumers, which we believe should be at the centre of the interests of the market facilitator.
- 3) We broadly agree with Ofgem's proposed design principles. However, Elexon believes that another principle should also be considered - Trust. Moreover, we believe these principles should not be analysed as individual qualities but rather in a three-dimensional perspective ('3D view'). For example, expertise should ideally be combined with impartiality and trust to help ensure fair processes and treatment of market participants.
- 4) In Elexon's opinion, all principles are important, however the element of impartiality, trust in the market facilitator, inclusivity and accountability are necessary to ensure an effective and efficient implementation of the role in a timely manner and in a way shared by all the parties. In fact, we believe that the expertise, if not accompanied by a clear articulation of roles and responsibilities and by trust, transparency and neutrality of actions, is not in itself a guarantee of optimal results for stakeholders and end consumers as well as of a rapid and agile implementation of the role.
- 5) We partially agree with Ofgem's assessment of Elexon's suitability to meet the market facilitator design principles, and present further detailed thinking on the several key principles, such as Accountability, Expert and Strategic, where we believe the evidence presented in the consultation may be incomplete. We structure the evidence supporting our view related to Elexon's ability to successfully deliver the role of market facilitator into separate discussion papers. Based on our detailed considerations and proposals, outlined in the Discussion Papers, we believe Elexon is well placed to deliver effective governance for market facilitator role and successfully implement the role in a timely manner. We also believe that Elexon has the capabilities and expertise to exercise its leadership role and ensure the development of solutions shared by all market participants also in light of its unique position as a neutral entity and its market design expertise in areas fundamental to the development of flexibility

markets such as metering, baseline and data.

- 6) While having a strong background and expertise in policy analysis, governance and market rules design, we acknowledge Elexon will have to develop its expertise in some specific areas of distribution network operations and boost its existing capabilities to deliver publicly available outcomes and reports. We have already started on that journey through our engagement with DSOs, FSPs, ENA Open Networks Programme (as referenced below). We will continue this activity to make sure the transition is smooth, if appointed. With regard to our internal capabilities, it is important to note that, should Elexon be appointed, we have already conducted a gap analysis and are ready to implement a plan to address needs in terms of human resources and additional capabilities needed.
- 7) We strongly believe the Accountability principle needs to be considered more broadly and include two aspects: 1) Accountability of the market facilitator to Ofgem (as discussed in the consultation), 2) Accountability of market participants to the market facilitator. We discuss practical ways to embed those facets of Accountability in our Discussion Paper on Governance arrangements: Accountability and implementation of the market facilitator (Appendix A to this consultation response). There is, of course, a broader accountability of market facilitator for delivering positive outcomes for market participants – in the form of the fully transparent, sustained markets.

### Structure of our response –

Based on the wide range of questions and feedback we have heard throughout our engagement programme, including meetings, calls, roundtables and workshops with industry participants we have structured our response in the following way:

1. **Consultation response** focused on answering Ofgem's questions.
2. **Strategy Outline and Approach to Implementation.** There is a strong desire from the industry to hear Elexon's views on the vision for the market facilitator, ways of working with the stakeholders, priorities and how the role can be practically implemented through the BSC governance. In a separate document, we present our conceptual views on these aspects in the Strategy Outline and Approach to Implementation document. We will work on detailing those further with Ofgem and the industry if appointed.
3. **Discussion Papers.** As we progressed through the discussions with the industry and our analysis of existing materials, publications and views, we have identified several critical topics that need to be considered and decided upon once the market facilitator delivery body is appointed. The purpose of these separate Discussion Papers is to formulate an issue, share Elexon's understanding of it and propose a practical solution to progress it forward. We believe that the considerations on concepts and principles (e.g., Accountability) we have formulated and outlined in the Discussion Papers will apply to both potential candidates: National Energy System Operator (NESO) and Elexon. We hope these Discussion Papers will be viewed as a useful and unique contribution from Elexon that moves forward our collective understanding of critical issues and builds a foundation for strong consensus around implementation mechanisms.

We encourage reading all documents in conjunction with each other as they are

designed as complementary to each other.

We have based our response below and attached the following sources of information and analysis:

- A. Feedback from Elexon's targeted strategic engagement programme in December 2023 – February 2024
- B. Our ongoing work and involvement in our advisory capacity in the industry-wide workstreams
- C. Ongoing programme of changes to the BSC rules and our involvement and participation in other industry Codes' Panels and modification groups, aimed at changes in market design.

**A) Targeted engagement programme covering:**

- 1. In-depth 1:1 conversations with market participants, including Distribution System Operators (DSOs), FSPs, industry associations, consultancies/advisors, and National Grid ESO - some 25 market participants. This included detailed analysis of the March 2023 publicly available consultation responses.
- 2. Engagement and discussions with the BSC Panel and BSC Parties (suppliers and generators)
- 3. Workshops with Energy UK (EUK), DSOs, and Association for Decentralised Energy (ADE)
- 4. Utility Week Flexibility Forum held on 18 January
- 5. Detailed conversations with ENA ON Programme
- 6. Detailed conversations with ENA ON Challenge group members

**B) Ongoing engagement with the relevant Ofgem (and Government) workstreams:**

Future of Distributed Flexibility  
Engaging domestic consumers in energy flexibility  
DESNZ Flex Markets Unlocked Programme  
Data Best Practice and Guidance and Digitalisation Strategy and Action Plan Guidance  
Data Sharing in a Digital Future  
Energy Codes Review  
Future System Operator's regulatory framework  
REMA – Review of Electricity Market Arrangements  
Locational Pricing Assessment undertaken by Ofgem

**C) Ongoing programme of changes to the BSC rules and our involvement and participation in other industry Codes' Panels and modification groups**

We would like to thank Ofgem's Local Governance and Flexibility Strategy team for the continued dialogue. We remain committed to our vision of working with industry to make significant progress in the energy transition to net zero, and will work openly and collaboratively with Ofgem, FSO/NESO, and the industry, irrespective of the outcome of this specific consultation. We are convinced that both candidates have unique perspectives, experiences and skills to contribute to the transformation of the local governance arrangements that will be required for the timely development of the transparent and interconnected distributed flexibility markets.

If you would like to discuss any areas of our response, please contact Hussein Osman,

Senior Strategy & External Affairs Analyst ([Hussein.Osman@elexon.co.uk](mailto:Hussein.Osman@elexon.co.uk)), Marta Milan, Senior Advisor ([marta.milan@elexon.co.uk](mailto:marta.milan@elexon.co.uk)) or Alina Bakhareva, Head of Market Intelligence and Advisory ([alina.bakhareva@elexon.co.uk](mailto:alina.bakhareva@elexon.co.uk)).

Yours sincerely,

Peter Stanley  
Chief Executive Officer  
Elexon

**List of attachments:**

Attachment A – Discussion Paper on Governance arrangements: Accountability and implementation of the market facilitator

Attachment B – Explainer on Elexon ownership

Attachment C - Discussion Paper: Market Facilitator – Metering Expertise

Attachment D – Discussion Paper: Market Design

Attachment E – Discussion Paper: Data Capabilities

Attachment F – Explainer on Open Network Programme

## Elexon's consultation response

### Q1. Do you agree with the proposed market facilitator design principles? If not, what additions or changes do you suggest?

- We agree with the key design principles outlined in the consultation. We share our additional considerations below and, in the appendices, which consist of Discussion Papers and additional detailed information on several topics.
- **Accountable** – In our view, Accountability is a crucially important element of the market facilitator role. We have taken a broader view on the Accountability principle than that outlined in the consultation. We have considered the two facets of accountability, namely:
  - Accountability of the market participants toward the market facilitator
  - Accountability of the market facilitator towards Ofgem
- We have summarised our detailed considerations in the **Discussion Paper: Governance arrangements: accountability and implementation of the market facilitator**, which is attached to our response. The main reason for us to frontload thinking and generating practically implementable options is that we will be able to progress at pace if Elexon is appointed.
- **Agile** – We agree with Ofgem's assessment and inclusion of this characteristic. Agility and ability to move at pace (Delivery at pace) is important both for the governance arrangements and decision making, as the local flexibility markets will continue evolving. We anticipate the evolution of existing and emerging flexibility market to last for at least several years. The establishment of flexible, transparent governance regime that supports and adapts to the flexibility evolution is vital to allow the value of flexibility to be fully realised.
- We would like to call out another element, connected with agility, **proactivity**, an ability to anticipate changes and actions needed, aimed at minimising risks or solving issues pre-emptively. It is a required characteristic based on the strategic leadership functions outlined by Ofgem. It will be particularly important for the translation of the findings and learning to market coordination efforts and market arrangements. On this point, we note that Elexon has over twenty years of experience in anticipating market needs by working collaboratively with industry to identify innovative solutions aimed at opening markets to new entrants, while ensuring that these rules are future proofed and suitable for ensuring the best results for markets and consumers, as we highlight in more detail in our discussion paper on market design.
- **Delivery at pace** – as described, delivery at pace is a secondary, derivative characteristic that is based on a clear accountability framework, strategic delivery plan, and a clear understanding of the roles and responsibilities of different groups of markets participants, involved in making distributed flexibility markets work.
- In our view, delivery at pace will also depend on how clearly the interconnections and dependencies between various frameworks and rulebooks are mapped out initially. There are at least three main frameworks/rulebooks that govern markets in the GB market arrangements: C16 statements for ancillary services, BSC for Balancing Mechanism and the emerging set of arrangements for distributed flexibility markets (flexibility principles agreed through Open Networks). There are also technical and commercial codes and central systems that will have to change to enable the new local flexibility

markets. We see that mapping exercise as an important building stone for the success of the market facilitator. Given Elexon's unique position as a trusted, independent, expert delivery body and BSC code administrator we believe that we are well placed to make these necessary connections between these different frameworks and layers.

- **Expert and strategic – Expertise** is important for the market facilitator. However, it will be equally important for the market facilitator to recognise and work together with the existing centres of expertise (rather than duplicate what is already an established capability in the industry). As a fundamental principle and a unique contribution into the existing knowledge hubs (e.g. ENA Open Networks Programme, NESO's areas of expertise, DSO markets and technical knowledge, customer research groups, local authorities), the market facilitator needs to connect and bring together all these centres of knowledge and expertise in a practical way, to pull them together into a delivery plan, having Ofgem and the Department for Energy Security and Net Zero's (DESNZ) vision for local flexibility markets as an ultimate goal.
- **Strategic** – Ofgem defines Strategic leadership functions as containing the following potential activities:
  - Translate Ofgem and the DESNZ's vision for local flexibility markets into a market coordination delivery plan;
  - Monitor developments across policy, regulation, innovation, and energy markets and proactively identify upcoming challenges, opportunities and risks that may require intervention;
  - Identify, if changes are required, to the market facilitator's functions, engaging with Ofgem where necessary to update roles and responsibilities;
  - Provide advice to government and Ofgem where regulatory or policy gaps are identified or where there is a need for joining-up and coordination.
- Based on the above, we interpret the **strategic** element of this design principle as a **practical ability to translate policy initiative into actions for market participants, followed by creating and driving a coherent strategic, industry-wide change plan and programme** through a multitude of governance and technical regulation layers, business models, and a varying ability/necessity to innovate among market participants – designing arrangements and creating the market facilitator fit for purpose in 2025 and the future.
- The second element of this design principle is to be able to feed back the experience and expertise back into policy making in a neutral and non-affiliated way. We see a confirmation to that interpretation in Ofgem's description of the Strategic Leadership function, which says:
  - A vision will be published by Ofgem and DESNZ
  - Market coordination delivery plan will be the market facilitator's responsibility and remit.
- **Impartial** – We fully support Ofgem's assessment: "To maintain industry's trust and confidence, the market facilitator must act and be seen to be acting objectively". Establishing and maintaining trust in the new markets and arrangements will be the most important task for the market facilitator. Impartiality and trust, and every market participant truly believing in that, will allow the market facilitator to guide the industry through the market coordination delivery plan assigning actions and objectively monitoring the progress.
- It is important to mention that the pace of change and the multi-dimensional nature of changes taking place simultaneously (markets, technology, business models, regulation, codes, consumer behaviour etc.) will require the market

facilitator to act as a strategic and technical advisor to Ofgem and Government.

- **Inclusive and collaborative** – We have a similar understanding of this principle and agree with Ofgem’s description of it: “This is essential to ensure the rules, standards, and processes it [market facilitator] develops are fit for purpose, reflect stakeholder and customer needs and contribute towards growing local flexibility markets”. For us, this principle appears to be rooted in corporate culture. The market facilitator must have a proven ability to listen to a wide range of opinions and supporting evidence, take those into account, and through an open and inclusive discussion, guide the industry to a mutually acceptable solution and a course of action – with the aim of achieving the vision for local flexibility markets.
- **Transparent** – We fully agree with Ofgem’s definition of this design principle. Market facilitator communications need to be fully transparent and, most importantly, accessible to an increasingly diverse range of market participants. As the distributed flexibility markets evolve and mature, the market facilitator will have to interact with smaller and less established market entrants without prior experience in electricity markets and arrangements, and, often with no resources to dedicate to regulatory/industry governance functions. Therefore, market facilitator should aim to make all its decisions not only accessible in terms of availability on their website, but also in terms of plain, accessible language, calling out impacts on existing market roles and clearly signposting next steps.
- **Trusted** - In addition to the above principles, we believe the market facilitator should be **trusted by Ofgem and industry participants** to deliver on its core roles of delivering the standardised, easily accessible, and transparent DSO markets, as well as driving alignment of the ESO and DSO market arrangements. On this point Elexon notes that the trust of all market participants towards the market facilitator is closely related to the principles of transparency, neutrality and inclusiveness. Only a market facilitator that is in possession of all these characteristics will be able to exercise effective leadership and bring the industry with it to achieve shared goals and implement plans in an effective and coordinated way.

**Q2. Do you think some of the design principles are more important than others? If so, which should we attach greater weight to?**

- In Elexon’s opinion, all principles are important, however the element of Impartiality, Trust in the market facilitator, Inclusivity and Accountability are necessary to ensure an effective and efficient implementation of the role in a timely manner and in a way shared by all the parties.
- Elexon believes that the Expertise is another primary principle but if not accompanied by a clear articulation of roles and responsibilities and by trust, transparency and neutrality of actions, is not in itself a guarantee of optimal results for stakeholders and end-consumers, as well as of a rapid and agile implementation of the role.
- We split design principles into primary and derivative. We see primary design principles as foundational for the market facilitator. We view derivative design principles as composite, which fully or in part depend on the primary design principles.
- In our view, the primary principles include the following:
  - **Impartial**
  - **Trusted**
  - **Inclusive & Collaborative**



- **Accountable** (with a caveat that Accountability to Ofgem can be enabled through various mechanisms, not just the more traditional licencing approach)
  - Expert.
- Derivative principles, in our view, include **Delivery at pace** and **Agile**. As explained above these will depend on clearly established accountability, clearly defined roles and expectation for various groups of market participants and the market facilitator's proactive mindset and approach to its role.
- **Transparency** is another derivative principle closely linked to that of collaboration, inclusiveness and impartiality as one of the cornerstones for inclusive and open arrangements, encouraging wider participation. Elexon notes that these elements (transparency, inclusivity, and collaboration) are part of an organization's culture and are therefore embedded in ways of working that are based on experience and fruitful collaborations with all stakeholders rather than on specific expertise or other characteristics that can be fulfilled through recruitment or planning activities.
- **Expert and strategic** – As explained above we agree with Ofgem that **Expertise** a primary feature of the market facilitator. However, Elexon notes that irrespective of what organisation is appointed, it may be impossible to match/grow the market facilitator's expertise in all areas required for the design of functional and interconnected, future-proof markets. It will, therefore, be necessary and obligatory for the market facilitator to have access to and establish open, inclusive, collaborative relationships with a range of existing centres of expertise to consider the full variety of views and take a full advantage of their knowledge.
- In our view, the market facilitator will have to interact with and consider the views for the following organisations:
  - Consumers and consumer representatives
  - Flexibility Service Providers (FSPs), and large energy users
  - Market Operators (NESO, DSOs)
  - Suppliers
  - Generators
  - Flexibility Platforms
  - Academics
  - Innovators
  - Equipment manufacturers.
- As explained above, we interpret **Strategic** as a practical ability to translate policy initiative into actions for market participants, followed by creating and driving a coherent strategic industry-wide change plan and programme. The strategic capacity needs to be combined with the primary principles discussed above to be viable and for the plan to be accepted and acted upon by all stakeholders involved.
- We would like to add another consideration on the **Impartiality** principle. A truly independent view, which is not affiliated with any group of market participants, is the most important element, on which the trust in the new arrangements will be built. We agree with Ofgem's own assessment published in their Call for Input on the future of local energy institutions and governance in 2022 that: "Trust is the foundation of any market arrangement, and any conflicts could limit the growth of efficient flexibility markets. Even the perception of conflicts has the potential to lower stakeholder confidence and discourage participation. If there is not enough participation to secure the level of flexibility to meet the needs of

the network, the DNO would have to meet the need through traditional network solutions when it is less efficient to do so.”<sup>1</sup>

- We also noticed that the discussion of the design principles is focused on individual qualities. A useful exercise to undertake could be to have a three-dimensional perspective ('3D view') by considering the interactions between certain qualities. For example, expertise should ideally be combined with Impartiality and Trust to help ensure fair processes and treatment of market participants. This exercise would allow to narrow the number of design principles to a few key unique characteristics and would help come to a definitive answer as to what are the prevailing characteristics that the market facilitator should have.

**Q3. How important is it for the market facilitator to be able to align transmission and distribution flexibility market arrangements? Why?**

- We agree that one of the main critical tasks for the market facilitator will be to align transmission and distribution flexibility market arrangements. Alignment of national and distributed markets will allow for service/product stackability and will drive operational transparency for both NESO's control room and DSO/DNO's control rooms – among other benefits.
- However, we disagree with Ofgem's assessment of Elexon's ability to drive the necessary level of alignment. We include further details on this under Q5.
- We provide additional practical ideas on how this alignment can work in practice in one of the important fields where coordination will be easy market access in our Attachment C - Discussion Paper: Market Facilitator – Metering Expertise

**Q4. How important is ease of implementation and enabling a smooth transition when considering the market facilitator delivery body? Why?**

- Similarly to the previous question, we fully agree with Ofgem's assessment and the importance of a smooth transition; however, we disagree with the assessment of how that consideration works in case of Elexon as a market facilitator. We discuss this further in Q5 and in our Attachment A – Discussion Paper on Governance arrangements: Accountability and implementation of the market facilitator.

**Q5. Do you agree with our assessment of Elexon's suitability for the market facilitator role? If not, why not?**

- We agree with Ofgem's assessment on some design principles and disagree on others.
- We disagree with Ofgem's assessment of the two wider considerations:
  - 1) Implementation and transition;
  - 2) Aligning transmission and distribution arrangements.

We detail our thinking below and provide evidence to support our views.

- In doing so, we recognise that we have the privilege of relying on the 20+ years of continuous corporate memory and the technical and market design expertise to be able to establish connections between code changes/modifications,

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<sup>1</sup> (2022) *Call for Input: Future of local energy institutions and governance*. publication. Ofgem, p. 23.

technical workstreams, specific detailed methodologies that operate in the background of the industry's licence and code arrangements, with the wider policy and regulatory changes required for the progress to net zero. We have become fully aware that in our designing and driving of the changes, we often do not communicate enough of how these changes support wider aspirations of Ofgem, Government and the industry. For this reason, we have decided to articulate the response to this consultation in discussion papers, which we hope will offer a useful tool to understand the breadth of expertise that Elexon can offer if it is appointed as a market facilitator.

- Below we would like to provide our comments on Ofgem's assessment of Elexon's suitability to meet the market facilitator design principles:

	<b>Principle</b>	<b>Elexon's comment on Ofgem's assessment</b>
<b>1</b>	<b>Impartial</b>	<p>We agree with Ofgem's assessment.</p> <p>Several parties raised a question about Elexon's continued impartiality in connection with the ongoing change in Elexon's ownership.</p> <p>As Ofgem highlighted in the consultation (par. 3.16) 'while Elexon's ownership is changing with the creation of the FSO,..., Elexon will remain fully operationally independent. We are therefore confident in Elexon's independence and that it could deliver the market facilitator role impartially if appointed'.</p> <p>Elexon will remain an industry body with its shares held by a subset of the industry parties that fund it, and the composition, roles, responsibilities, and ways of operation of Elexon's Board, Executive team and the BSC Panel will not change because of the outcomes of the consultation and change of ownership.</p> <p>The change in ownership will not impact on Elexon's governance and its ability to successfully and implement its role as an independent and impartial market facilitator if appointed.</p> <p>Further details to reassure stakeholders are provided in Attachment B – Explainer on Elexon ownership.</p>
<b>2</b>	<b>Transparent</b>	We agree with Ofgem's assessment.
<b>3</b>	<b>Inclusive &amp; collaborative</b>	We agree with Ofgem's assessment.
<b>4</b>	<b>Agile</b>	Overall, we agree with Ofgem's assessment and recognise the point raised by Ofgem that Elexon would be required to develop new expertise in the new areas. We agree that some technical areas will be new to Elexon.

		<p>At the same time, we would like Ofgem to recognise the fact that we will be expanding into new areas of technical expertise from an already strong and wide-reaching foundation of technical knowledge that spans across some areas of the DNO network operations.</p> <p>Elexon’s existing role and our expertise ranges from settling the Balancing Mechanism and wholesale imbalances right down to assuring the metering and data collection processes for the smallest customers, which means that Elexon already have a ‘whole system view’ which makes its position in the industry unique.</p> <p>To mitigate that potential concern of slower than necessary progress in the initial ramp-up phase, we intend to work closely with ENA ON Programme if appointed.</p> <p>ENA ON Programme has a well-established and familiar structure of workgroups and a robust programme governance mechanism.</p> <p>We understand from the ON Programme that they view the Programme governance and set-up as compatible (and if necessary, transferrable) to Elexon.</p> <p>We further state our credentials in the technical design areas and views on the need to enable coherent changes through all markets in our Attachment D – Discussion Paper: Market Design.</p>
5	<b>Delivery at pace</b>	<p>In its assessment, Ofgem links the principle of delivering at pace with that of expertise in specific areas.</p> <p>While Elexon understands the logic behind this connection, it should also be noted that:</p> <ol style="list-style-type: none"> <li>1) even in-depth knowledge of a subject does not necessarily reflect the ability to intervene and perform well;</li> <li>2) the ability to deliver at pace is, in fact, the result of a series of factors such as: organisational capacity, corporate culture, agile processes, clear governance arrangements, a transparent decision-making framework.</li> </ol> <p>Over the past 20+ years, Elexon has proven its ability to deliver complex projects in a successfully and timely fashion. We provide examples and evidence in the Attachment C and D - Discussion Paper: Market Facilitator – Metering Expertise and Market Design.</p>

		<p>Regarding the subject matter expertise related to local flexibility markets, as already outlined above, Elexon believes that both Elexon and NESO need to strengthen their knowledge and capabilities and that, above all, whoever is appointed as a market facilitator should also leverage the knowledge that is already available in the industry to avoid duplication of costs.</p> <p>Elexon intends to mitigate this concern through collaboration with ENA ON Programme. Furthermore, to strengthen subject matter expertise on local flexibility markets, Elexon has developed a plan aimed at meeting the expertise requirements requested.</p>
6	<b>Expert &amp; strategic</b>	<p><b>Expert</b> – We partially agree with Ofgem’s assessment.</p> <p>Ofgem’s assessment states that: “The market facilitator role will require the delivery body to track and manage complex interdependencies across areas of policy, regulation, and markets. Elexon has demonstrable expertise across these areas, although it would have to further develop its subject matter knowledge to ensure it can take a leadership role across local flexibility if appointed.”</p> <p>We believe the above statement need to be taken in two parts: 1) Elexon’s expertise across policy, regulation and markets, 2) Subject matter knowledge.</p> <p>We believe the suite of the documents developed in-house in response to this consultation and the interdependencies between various ongoing policy and governance initiatives can attest to Elexon’s expertise and analytical ability to establish interconnections between complex, interrelated areas of policy, regulation and market arrangements.</p> <p>We track, analyse and respond to major industry consultations and have designed a programme of Discussion Papers to summarise our expertise and demonstrate how our experience can be applicable to the market facilitator role’s functions and tasks. We welcome Ofgem’s views on this idea and plan and invite Ofgem’s views on the most important topics for us to address.</p> <p>We discuss an interplay between having own subject matter expertise and having access to the deep existing pools of industry expertise above.</p> <p>To strengthen our knowledge in specific areas, Elexon is working through a plan to set-up a new</p>

		<p>dedicated team for the development of the market facilitator role if appointed.</p> <p><b>Strategic</b> – We disagree with Ofgem’s assessment that Elexon is not suited and qualified to effectively exercise a leadership role due to the alleged lack of expertise in certain areas.</p> <p>While Elexon recognises that there are areas where we need to strengthen our expertise, we also note that leadership skills, meaning the ability to guide stakeholders and processes towards achieving optimal objectives for markets and consumers, is not only determined by the knowledge/expertise, but also by how the entity is perceived and regarded by market participants.</p> <p>Elexon believes that to exercise an effective leadership role, the market facilitator must be an entity trusted and regarded as impartial.</p> <p>As outlined by Ofgem in the consultation, Elexon ‘is a not for profit, independent entity delivering key energy system functions. It is not a procurer of flexibility and does not participate in the markets that the market facilitator will be responsible for, and its overarching institutional arrangements are well aligned with taking on the market facilitator role’.</p> <p>Elexon believes that to be able to immediately exercise a leadership role, it is necessary that the parties involved recognise the credibility and the absence of conflicts of interest (even if perceived) in the work of the market facilitator. For these reasons, we disagree with Ofgem’s assessment related to Elexon’s ability to exercise the strategic function.</p> <p>Regarding Elexon’s potential to take a leading role in the ENA Open Networks program, we would like to emphasise that Elexon has been an active participant in the Open Networks group for over five years. Although the Challenge Group was established in 2022, our involvement predates this as we were part of the preceding Advisory Group and actively contributed to various Open Networks working groups.</p> <p>While Elexon’s main contribution to Open Networks has been in the form of challenging and advising, we have remained deeply engaged and provided valuable insights. For instance, since 2018, we have advocated for streamlining local markets by adopting a unified set of arrangements for DSOs. This longstanding engagement has given us a comprehensive understanding of some</p>
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		<p>of the challenges that exist within local markets. We expand on some of the significant contributions we have made to the Open Networks initiative in our Attachment F – Explainer on Open Network Programme.</p> <p>In addition to our involvement in the Open Networks group, we have actively participated in other key innovative flexibility programs and trials. One notable example is our participation in the Project Local Energy Oxfordshire (LEO) advisory group. Project LEO was established to trial flexibility and local energy approaches, and it produced thirteen key recommendations for the development of local flexibility initiatives. We are actively working and open to additional opportunities to participate in innovative trials or programs. We aim to contribute our expertise gained from operating in national markets, adding value to such initiatives.</p>
7	<b>Accountable</b>	<p>We partially disagree with Ofgem that holding Elexon to account may be more challenging than if it were licensed. There are several arrangements under which Elexon can be held accountable for its decision-making and deliver at pace through open, transparent, and participatory engagement with DSO and DNOs), the NESO, and market participants.</p> <p>Several implementation options are feasible, although some might work better in the transitional phase for the quick establishment of the market facilitator. Others can serve as enduring solutions once other ongoing institutional reforms have taken place (e.g. Energy Code Governance Reform).</p> <p>As noted above, we explore the Accountability principle and its practical implementation in detail in our Discussion Paper on Governance arrangements: accountability and implementation of the market facilitator.</p> <p>We hope that this Discussion Paper will serve as a helpful summary and foundation for further discussions as it outlines possible ways to satisfy Ofgem’s intention to retain an active role in development of the distributed flexibility arrangements and degree of control over the market facilitator delivery body.</p>
8	<b>Implementation &amp; transition</b>	<p>After careful consideration, internal discussions and in-depth conversations with the industry, we disagree with Ofgem's assessment that there are many challenges, risks and obstacles to the</p>

		<p>implementation of the role should Elexon be appointed as market facilitator.</p> <p>We understand the theoretical risks highlighted by Ofgem in having to rely on a BSC Party to raise a modification to enable Elexon to take on a new role. However, we would like to draw Ofgem's attention that, in practice, this condition and a reliance on a BSC Party to raise a modification has not presented an issue when Elexon took on and delivered its new roles. Moreover, several parties able to raise modifications under the BSC have already expressed their willingness to support Elexon as market facilitator and to raise the required change to the BSC code. We therefore believe that there is no obstacle to the swift and agile start of the process.</p> <p>With regard to the transition phase, it should be noted that ENA ON governance arrangements are well aligned with current Elexon governance arrangements. This means that the two organisations could work well together to ensure a smooth and easy transition.</p> <p>For all these reasons Elexon believes that it is well placed to deliver effective governance and successfully implement the role in a timely manner.</p>
9	<p><b>Aligning transmission &amp; distribution arrangements</b></p>	<p>In its assessment Ofgem outline that aligning transmission and distribution market arrangements could be challenging for Elexon to deliver as the market facilitator. If appointed, the separation of responsibilities between the FSO and Elexon, responsible for transmission and distribution respectively, would make it harder to coordinate and drive alignment.</p> <p>While we agree with Ofgem that this would need to be an important area of focus as part of the next steps should Elexon be appointed, we would like to draw Ofgem's attention to some aspects that appear to be less considered at the moment and are essential for the alignment of transmission and distribution:</p> <ol style="list-style-type: none"> <li>1) Elexon's existing role and our expertise ranges from settling the Balancing Mechanism and wholesale imbalances right down to assuring the metering and data collection processes for the smallest customers, which means that Elexon already have a 'whole system view' which makes its position in the industry unique; we outline these aspects and why they will</li> </ol>



		<p>be relevant for the successful deliver of the market facilitator role in more detail in our Attachment D - Discussion Paper: Market Design</p> <p>2) FSO/NESO, as well as DSOs, will have to have a clear line of accountability to the market facilitator, either through a code or a multiparty agreement. The same principle should apply to FSPs, suppliers and generators, and any other market roles, involved in trading arrangements.</p> <p>This will formalise and clarify the areas of responsibilities and accountabilities for each market participant category involved in the distributed flexibility markets. The separation of responsibilities will be required both for FSO/market facilitator and DSOs/market facilitator for the arrangements to be designed impartially and with a view of the best outcomes for the market development and consumers.</p> <p>Looking forward, the interdependencies between TO-level and DNO-level balancing services and other market arrangements will become more complex, with all existing arrangements needing to change to accommodate new products and new markets.</p> <p>Through a wide range of market participants and stakeholders that participate in governing the code and progressing changes, we note that Elexon is in a unique and neutral position to ensure that these changes will take place in a shared and inclusive way, and with no detrimental impacts on other market participants or consumers.</p> <p>Our expertise in metering is also an important asset for the future growth of local distributed flexibility markets as they mature.</p> <p>Elexon has expertise in data and architecture and as SRO for the MHHS program will manage billions of meter readings. We believe this data will be critical for network operators to in planning, managing and operating their networks.</p> <p>In light of above, Elexon believes it can build on its existing capabilities in market design, data architecture, market assurance, metering and baselining to coordinate and execute the necessary changes to increase market liquidity, , confidence and the participation necessary to stimulate flexibility at local level.</p> <p>Should Elexon be appointed as market facilitator,</p>
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		<p>we would leverage our internal capabilities and market design expertise to ensure the required changes are progressed and mitigate the risks of distortions to other stakeholders.</p>
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### Monitoring the performance of the market facilitator

- During our engagement with stakeholders, some highlighted the importance of having incentives and tools to evaluate the performance of the market facilitator.
- As we outline in our Attachment A – Discussion Paper on Governance arrangements: Accountability and implementation of the market facilitator Elexon believes that it will be appropriate to design a set of measures to protect the interests of customers and consumers.
- However, we note that both candidates will be non-for-profit entities, with Ofgem having limited powers for incentivising or penalising their performance. Since both candidates are not-for-profit entities, ordinary financial control/incentive mechanisms would not be appropriate because they would ultimately be paid by the customers/consumers.
- For this reason, we believe that the market facilitator should work with the industry and Ofgem to define alternative tools, such as, for example, Stakeholder Surveys aimed at measuring its performance in key areas (e.g. collaboration, inclusivity, transparency).
- On this topic, we note that several workstreams at Ofgem are considering regulation and holding to account non-for-profit central bodies, namely: Energy Codes Review, future FSO regulation, DCC Review, and this workstream on the market facilitator delivery body. In our view, there is a clear need to design a foundational set of overarching performance assessment criteria for non-for-profit entities to create efficiencies and alignment, reduce regulatory and compliance burden (therefore, cost of central arrangements to the industry) and to reduce Ofgem’s own effort in performance assessment.
- We also note that Ofgem discusses an option for possible actions in case of non-delivery for Elexon and does not provide a view on its course of action in case of non-delivery for FSO/NESO.
- Our last note is that there appears to be discrepancy in understanding/interpretation between the market facilitator consultation, specifically para. 3.33 stating “In practice, if chosen for the market facilitator role we would set out the roles and responsibilities in the FSO’s licence(s) and in the relevant governance documents (e.g. guidance documents). This would define the new market facilitator role in detail, including setting out our expectations alongside any specific reporting and governance requirements for the market facilitator role”, and the direction of travel for FSO regulation as outlined in the recent consultation published by Ofgem, which aims to remove specific detailed performance reporting requirements.

### Q6. Do you agree with our assessment of the FSO's suitability for the market facilitator role? If not, why not?

- FSO/NESO is being established as a neutral entity in the centre of policy implementation as the industry transforms on its way to net zero, with a clear mandate from the government to drive alignment and whole-system approach. As such, we agree with Ofgem that FSO/NESO **will** establish and develop the necessary attributes, corporate behaviours and ways of engaging with the market participants, which are universally viewed across the industry as independent and neutral. However, culture change and establishing new

corporate behaviours may take several years. We will be open to share with FSO/NESO Elexon's approach to sustaining and embedding new values into our culture of serving at the heart of the markets as independent, neutral market experts.

- Elexon has a long history of working hand in hand with ESO in opening Balancing Mechanism and wider market arrangements. We are committed to continue working with the FSO/NESO regardless of the outcome of the consultation.

**Q7. Do you believe Elexon or the FSO is better suited to take on the market facilitator role when considering the design principles and wider considerations?**

- We believe that Ofgem has designed a comprehensive list of design criteria, including the two additional considerations. This decision framework and the industry responses should provide an extensive base of facts and opinions for making a well-grounded and well-evidenced decision.
- As stated in the consultation Elexon is well-placed to take on the role. Based on the evidence outlined above we believe Elexon is best suited to deliver this role and a range of new functions. As stated above, irrespective of the outcome, Elexon is fully committed to progressing those areas of work, which Elexon can lead on, to get the distributed flexibility markets established and connected with the existing national level markets and arrangements for maximum operational transparency, revenue stackability, and creating a customer-centric, flexibility centric future electricity system.
- The absence of key design principles such as neutrality, transparency and inclusiveness could jeopardise the delivery of the open, transparent and coordinated flexibility markets. For example, trust is fundamental to any market arrangement, and the lack of it undermines development, particularly in nascent markets. When market participants perceive a conflict of interest, whether real or perceived, it can have unintended consequences, potentially resulting in reduced participation. Even with robust governance measures in place to prevent conflicts of interest, lingering doubts among market participants could undermine the effectiveness of flexibility markets, leading to inefficiencies. However, if market participants believe that a fully neutral party has taken on the role, with no vested interests, this would in turn lead to market participants having trust within markets, and leading to the intended outcome of delivering open, transparent and coordinated flexibility markets.